

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 26, 1994

MEMORANDUM

SUBJECT: Final Rule Exempting Recovered Oil from the Definition of Solid Waste

FROM: Michael Shapiro, Director
Office of Solid Waste

TO: Waste Management Division Directors
Regions 1-10

The Administrator has just signed a final rule that excludes recovered oil from the definition of solid waste. This action promotes the recycling and reuse of oil within the petroleum refining industry. A prepublication copy of this notice is attached for your information and use.

As you may recall, the American Mining Congress (AMC) and the American Petroleum Institute (API) filed legal petitions challenging certain aspects of the Agency's regulatory definition of solid waste in 1987. Specifically, AMC and API argued that materials being reused or recycled during on-going manufacturing or industrial processes were not being discarded or disposed of, and therefore, should not be considered as "solid wastes." The Court upheld this argument, and in 1988, we proposed to clarify and amend certain aspects of the definition of solid waste as it relates to the recycling of residual/secondary materials.

This is the first action the Agency has taken to finalize this proposal. This rule only addresses the definition of solid waste as it applies to these petroleum materials; it does not affect any other solid wastes or issues pending from the 1988 proposal.

"Recovered oil" is excluded from the definition of solid waste, when the oil is returned to the petroleum refining process(es) prior to crude oil distillation or catalytic cracking. This exclusion applies primarily to oil that is reclaimed from refinery wastewaters, and does not apply to recovered oil stored in land-based units. This rule also excludes from the definition of solid waste, oil recovered from off-site petroleum industry activities that are related to exploration, production, and transportation, when the recovered oil is returned to a petroleum refinery and recycled as described above.

This notice also expands an existing exemption for petroleum coke produced using oil-bearing hazardous waste. This exemption allows the coke to remain exempt when produced using off-site refinery waste, as long as the off-site facility generating the oily waste, and the facility producing the coke, are owned by the same person or company.

If you need more specific, technical information or assistance, please contact Ross Elliott at (202) 296-3152. If you or your staff want additional copies of the notice, please call the RCRA Docket at (202) 260-9327. The general public can obtain copies by calling the RCRA Hotline at (800) 424-9346.

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